

<b>Informal Discussion Date:</b>  <b>July 28, 2016</b>	<b>Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun</b> <b>660 Davis Street, San Francisco, CA 94111</b>  <b>SUMMARY OF INFORMAL DISCUSSION</b> <b>IN LIEU OF AN OFFICIAL BOARD MEETING</b> <b>DUE TO LACK OF A QUORUM</b>	<b>Page 1 of 12</b>
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#### **Board Members Present**

Dave Connolly, Vice President, Public Member  
Captain Joe Long, Pilot Member  
John Schneider, Wet Cargo Industry Member

#### **Board Members Absent**

Jennifer Ferrera Schmid, President, Public Member  
Captain George H. Livingstone, Pilot Member  
Vacant, Dry Cargo Industry Member  
Vacant, Public Member  
Benjamin De Alba, Assistant Secretary for Rail and Ports, representing the Secretary of the California State Transportation Agency (CalSTA)

#### **Staff Present**

Allen Garfinkle, Executive Director  
Roma Cristia-Plant, Assistant Director  
Dennis Eagan, Board Counsel  
Sigrid Hjelle, Office Technician

#### **Public Present**

Knute Michael Miller, Past Board President; Captain Peter McIsaac, Port Agent; Mike Jacob, Pacific Merchant Shipping Association (PMSA) Vice President and General Counsel; San Francisco Bar Pilot (SFBP) Captain Dennis Plant; Rollie Caabay, California State Lands Commission; Kevin Broyles, Mark Labert, Paul Taylor, United States Coast Guard; and George Nowell, Esq.

### **OPEN MEETING:**

#### **1. Call to Order and Roll Call –President Schmid**

Vice President Connolly called the meeting to order at 9:00 a.m. Assistant Director Cristia-Plant called the roll and confirmed there was not a quorum.

Board Counsel Eagan commented that without a quorum, the Board members in attendance could not take any action, and that no official minutes would be prepared, but staff could prepare an informal summary of any discussion that took place. Vice President Connolly elected to proceed with informally discussing the agenda items, and confirmed that no official actions would be taken during the discussions.

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2. **Review and approval of Board meeting minutes –President Schmid**  
**Board action to approve meeting minutes from the Board meetings held on June 14, 2016, and June 23, 2016.**

No action was taken.

3. **Announcements –President Schmid**  
**Announcement of events affecting Board business since the last Board meeting.**

There were no announcements.

4. **Board Member Activities – Board Members**  
**Reports by Board Members having Board business-related activities since the last monthly Board meeting or planned prospectively.**

There were no announcements.

5. **Directors' Report – Executive Director Garfinkle/Assistant Director Cristia-Plant**

**A) Correspondence and activities since the Board meeting held on June 23, 2016.**

Executive Director Garfinkle reported on the following correspondence and activities since the June Board meeting as follows:

- June 23, 2016. Board Staff received a copy of a letter addressed to the Port Agent confirming that the following individuals were approved as qualified pilots for the ensuing fiscal year by the Stockton Port District at its meeting on June 20, 2016: Captains Alden, Cloes, Fawcett, Haggerty, Hurt, Johnson, Laakso, McCloy, Miller, Pate, and Robinson.
- July 11, 2016. Board Staff received the One Hundred Sixty Second Annual Report of the Board of Commissioners of Pilots of the State of New York covering the 2015 annual year. He noted that this Board has three pilotage districts: The Port of New York/New Jersey, The Hudson River, and Long Island and Block Island Sound.
- July 14, 2016. He attended the Harbor Safety Committee meeting. At the meeting, a draft letter to the Acting Chief Dredged Material Management Office (DMMO), Regulatory Division, San Francisco District, U.S. Army Corp of Engineers (USACE) that outlined issues with cables and pipelines laid on the bay floor was reviewed. The letter requested that USACE consider certain factors when reviewing permits for these types of projects, including:

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- Ensure submarine cables and pipelines are buried or otherwise protected against all known risks.
- Ensure the permit is reviewed by persons with local knowledge of anticipated deep draft vessel traffic and navigation routes.
- Ensure the permit includes language which requires a permittee to monitor its cable/pipeline and to timely carry out appropriate maintenance and repairs when it is determined to be outside the original parameters of the permit.
- July 19, 2016. He was privileged to attend the USCG Captain of the Port Change of Command ceremony on Yerba Buena Island, at which Captain Greg Stump was relieved by Captain Anthony Ceraolo.
- July 20, 2016. Board Staff receive a draft Job Analysis Work Plan from the Department of Human Resources outlining a preliminary timeline for the Pilot Job Analysis work that precedes the Pilot Trainee Training program entrance examination preparation.
- July 26, 2016. Board staff received a copy of the National Transportation Safety Board Marine Accident Brief concerning the collision between the USCG Cutter KEY LARGO and the fishing vessel SEA SHEPHERD. The cutter struck the fishing vessel, which was dead in the water pulling lobster traps. The brief indicated the probable cause of the accident was the failure of the officer on watch on the cutter to detect the fishing vessel, most likely because he had fallen asleep due to fatigue.
- July 27, 2016. Board staff received word that the California Highway Patrol received 13 applications for the Board's vacant Staff Services Analyst position. He stated the final filing date was July 18, 2016, and that this is the second attempt at selecting a replacement for Kelly Dolcini.

#### **B) Report on pilot licensing matters in the past month and current month.**

Executive Director Garfinkle reported the following pilot licensing matters:

- Between the May and June Board meetings, Board Staff renewed the licenses of Captains Hurt, Long, Alden, Slack, Cloes, Manes, Miller, and Nyborg.
- Since the June Board meeting, Board Staff renewed the licenses of Captains Coney and Merritt.

#### **C) Report on Board surcharges.**

Executive Director Garfinkle reported the Board received a check from the SFBP for \$135,167.16 for the June 2016 surcharge revenues as follows:

- Board Operations Surcharge: \$75,795.16
- Pilot Continuing Education Surcharge: \$ 3,740.00

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- Trainee Training Surcharge: \$55,632.00

#### **D) Report on legislative activities and contractual matters.**

Assistant Director Cristia-Plant reported the following legislative activities and contractual matters since the June Board meeting:

- AB 1693 (Gonzalez) was approved by the Governor and chaptered on July 1, 2016, and will appropriate funds from the General Fund of \$387,088 to pay the judgment in Pacific Merchant Shipping Association v. The Board of Pilot Commissioners.
- AB 1432 (Bonta; Wieckowski). This was the pilotage rate increase bill from last year, and was amended on May 11, 2016, to delete all provisions except creating a new statutory section for a navigation surcharge not to exceed \$1.2 million. This bill passed out of the Assembly Committee on Transportation on June 28, 2016, with a recommendation to concur with the Senate amendments. The bill will next be considered by the full Assembly once the Legislature reconvenes after its summer break on August 1, 2016.
- The Board and Artelia Eau & Environment have signed a \$1.2 million 5-year contract for pilot and trainee manned model training. The signed contract has been sent to California Highway Patrol for forwarding to the Department of General Services for final review and approval.
- A \$128,120 interagency agreement with California Department of Human Resources (CalHR) was recently executed. CalHR has already begun work on the next Pilot Trainee Training Program entrance examination, and sent the Board a task list and timeline for an update of the pilot job analysis.
- A \$4,900, one-year contract was sent to Dr. Norman Hertz for signature. Dr. Hertz has agreed to make himself available to pass on his Pilot Trainee Training Program pilot job analysis and entrance examination institutional knowledge to the CalHR staff.
- A \$359,875, two-year contract with the University of California San Francisco Campus was approved by the Department of General Services on June 30, 2016. The new contract has an effective date of May 1, 2016, and there will be no lapse in pilot fitness determination services.
- The current contract with the SFBP expired on June 30, 2016. Board staff have been working with the Mr. Paetzold, the SFBP's Business Director-General Counsel, to finalize a new five-year contract for surcharge administration and assistance with administering the Pilot Trainee Training and Pilot Continuing Education Programs. In the interim, Board staff have received approval from the Department of General services to enter into a six-month emergency contract with the SFBP, which allows the emergency contract to have an effective date of July 1, 2016. Board staff are working with CHP contract staff to finalize the emergency agreement, and the

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contract should be submitted to the SFBP for its review and approval in the near future.

- The current contract with the Department of Transportation (Caltrans) information technology services expired on June 30, 2016. Caltrans has agreed to a \$45,000 three-year agreement, and Board staff anticipate signing the new contract in the next week or two.
- Board staff is still waiting to hear back from CalHR if it can provide drug testing services to the Board's trainees through an interagency agreement. CalHR has a master contract with Comprehensive Drug Testing, Inc. to offer random drug testing services to state employees. At issue is that the trainees are not state employees, and CalHR does not know if it has the legal authority to provide testing services to non-state employees through its master contract.
- No work was done on a potential Pilot Pension Plan contract for CPA services since the last Board meeting. Board Staff prepared the June monthly pension allocation report for pension monies that were distributed earlier this month, and also prepared the third quarter pension plan surcharge calculations. Work on this contract will commence when other higher priority contracts are completed.
- As stated at prior meetings, The California Public Employees Retirement System (CalPERS) staff have confirmed that the Board can utilize one of the firms in their pool of actuaries. Upon direction of the Board, Board Staff will work with CalPERS to contract with an actuary.

## **6. Port Agent's Report – San Francisco Bar Pilot (SFBP) Port Agent Capt. Peter McIsaac**

### **A) Monthly report on pilot availability and absences.**

Port Agent McIsaac reported Captain Kelso has been absent for medical reasons (AFMR) since June 19, 2016, and that he was placed on medical disability leave status effective July 20, 2016. He also reported that Captain Kenyon has been not fit for duty since July 2, 2016, and that he was placed on medical disability status effective July 25, 2016.

Port Agent McIsaac reported the SFBP continually monitors the dispatch list for possible minimum rest period (MRP) exceptions, and if the potential exception is likely to result in a rest period of less than ten hours, mitigating measures are employed by the SFBP. He reported that these measures include, but are not limited to, suspending continuing professional development protocols, cancelling scheduled meetings, cancelling previously granted compensating time off requests, suspending SFBP internal working rules, or calling in off-watch pilots.

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Port Agent McIsaac reported the SFBP currently has 57 licensed pilots, that there were 25 MRP exceptions in June, and that the shortest rest period was 9.2 hours. He noted that June 26 and 29, 2016, accounted for 15 of the exceptions, and that both days were very busy.

**B) Monthly report on SFBP ship piloting business activity.**

Port Agent McIsaac reported the 13/9 day / night work shift differential that was implemented approximately six months ago was determined to be problematic, with some pilots having very short shifts at night, while others had very long shifts during the day, and the rotation turned exceedingly fast at times. He stated that the SFBP has developed new work rules in conjunction with its fatigue experts that are intended to spread the work load more evenly, but still cap the number of consecutive hours a pilot can work. He reported the necessary software changes were made, and the beta program has been running in parallel for the past week, with positive reports from the dispatchers, with the changes having the desired effect.

Port Agent McIsaac provided the following report on pilot vessels:

- P/V SAN FRANCISCO was in dry-dock from June 13, 2016 through July 22, 2016, that the down time was planned, and vessel work included—
  - Hull and freeboard commercial blast. Complete hull and freeboard painting.
  - Coolers were removed from the vessel and acid-dipped, sand-swept and coated.
  - Cooler pockets were clad-welded in several areas. Pockets were then coated with fiberglass epoxy coating.
  - Major sandblast of the superstructure and 02 and 03 decks.
  - Major prep and paint of areas of the bilge.
  - Many smaller repairs were also accomplished.
  - American Bureau of Shipping annual load line inspection was completed, certificate stamped and signed.
  - A Condition and Valuation survey was completed. The appraisal report will be forwarded to Board when received
  - Boat goes back into service on August 2, 2016.
- P/V GOLDEN GATE was out of service on July 23, 2016, for a main engine water leak repair.
- P/V DRAKE will be taken out of service for six weeks for sand blasting / painting and propulsion gear maintenance. A Condition and Valuation Survey and the Annual Load line inspection will be completed in the near future.

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Port Agent McIsaac reported the following billed vessel moves in June 2016 compared to a three year average:

- Bar Crossings 581 moves/+5.1%
- Bay Moves 124 moves/-7.7%
- River Moves 51 moves/-1.1%
- Total Moves 756/+2.7%
- Gross Registered Tons (GRT): 31.8M/+9.0%

He reported that when comparing June 2016 YTD with 2015, total moves were up 9.3% and GRT's were up 24.1%.

Port Agent McIssac reported the following SFBP diversity outreach activities:

- April 29, 2016. The SFBP Diversity Committee (Diversity Committee) participated in a meeting at the California State University Maritime Academy (CMA) regarding possible partnering with the Vallejo Unified School District (VUSC) and CMA to develop a maritime-based curriculum in one of the Vallejo high schools. In attendance representing CMA were: President Cropper, Sue Opp (Provost), Graham Benton (Academic Affairs VP), and Captain Sam Pecota (Academic Dean). Representing the VUSD were: Dr. Ramona Bishop (VUSD Superintendent), Dr. Alana Shackelford (Director of Partnerships and Community Engagement), Cassie Gosset (District Coordinator K-12 Educational Services), Linda Kingston (Jesse Bethel High School Principal), Les Szmids (Lead instructor, International Finance Academy).
- June 27, 2016. The Diversity Committee conducted a presentation and pilot boat tour for teachers/administrators from Vallejo's Jesse Bethel High School, VUSD Academy of International Finance, with the goal of developing maritime curriculum.
- June 28, 2016. The Diversity Committee made a presentation to largely minority and economically disadvantaged high school-age students attending Summer Academic Enrichment Program (SAEP) at CMA – 16 years in operation. Program supporters include the Ports of San Francisco and Oakland, and Chevron.
- June/July, 2016. The Diversity Committee conducted continued outreach to several women currently serving in various command and deck positions have expressed an interest in applying to take the next or a future Pilot Trainee Training Program selection exam. Tours of Pier 9 and pilot boat rides were also provided.
- July, 2016. Maya Lindeman, USMMA Cadet, participated in a 3-weeks program at the SFBP. Elizabeth O'Brien, CMA Cadet, is scheduled for an internship in September. During the month, the SFBP maintained continued contact with Hispanic cadets for future internships.

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- July 1, 15 and 29, 2016. The SFBP provided familiarization talks on free Port of Oakland harbor tours.
- July 12, 2016. The SFBP participated in a quarterly meeting with San Francisco Port Commission President W. Adams to discuss outreach and mentoring efforts and opportunities.
- The Diversity Committee has been in contact with the Organization of Black Maritime Graduates (through Port Commission President Adams and through the Master, Mates and Pilots union), and Captain Robert Cook, a Delaware Bay and River Pilot, to develop effective outreach ideas.

**C) Monthly confidential written report of pilots who have been absent for medical reasons (AFMR) presented to Board. The Board may go into closed session to discuss contents of the Port Agent's confidential report as authorized by Harbors and Navigation Code § 1157.1.**

There was no discussion of the confidential written report of pilots who have been absent for medical reasons. There was no closed session discussion of this item.

## **7. Pilot Evaluation Committee – Captain George Dowdle**

### **A) Report on the Pilot Evaluation Committee (PEC) meeting held on July 20, 2016.**

Port Agent McIsaac gave the PEC report for PEC Chairman Captain Dowdle, and reported the following:

- The PEC met on July 20, 2016.
- The six current trainees include Captains Lowe, Rubino, Cvitanovic, Epperson, Alfars and Vogel.
- The trainees' time in the program ranges from 4 to 20 months.
- In closed session, Trainees Lowe, Cvitanovic, Epperson and Rubino were interviewed individually.
- Trainees Alfars and Vogel did not attend the PEC meeting since they both were on a Sacramento River transit. Their monthly evaluation cards were reviewed by the PEC in their absence.
- The one trainee on Evaluation Status has been temporarily taken off.
- All trainees are continuing to progress and meet the required benchmarks.
- The PEC will meet next August 17, 2016, at 0730.

There were no questions or comments from the Board or the public.

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- B) Possible PEC recommendation to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program. Possible Board action to place one or more Pilot Trainee Training Program trainees on probation, or dismiss one or more trainees from the program.**

There were no recommendations.

- C) Possible PEC recommendation for a determination that a trainee has or trainees have completed the Pilot Trainee Training Program. Possible Board action to award a Certificate of Completion to a trainee who has completed the Pilot Trainee Training Program.**

There were no recommendations.

- D) Possible recommendation from the Executive Director for the appointment of a new pilot or pilots. Possible Board action to accept a recommendation from the Executive Director that a trainee holding a Certificate of Completion from the Pilot Trainee Training Program be licensed as a state-licensed pilot.**

There were no recommendations.

**8. Reported safety standard violations – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)**

Executive Director Garfinkle reported on one safety standard issue in which the pilot reported that the ship did not get up to speed as ordered, nor did an anchor brake hold as expected. The pilot reported the ship to Vessel Traffic Service and Port State Control, but the ship was not put on hold, and there was no class inspection. Executive Director Garfinkle stated that he conducted follow-up to see what could be done in the future when pilots are reporting ship problems, as it appeared that the pilot's concerns were not being adequately considered. The Coast Guard contacted the ship's master, who claimed the ship was operating as designed. USCG Sector San Francisco Prevention personnel who participated in this review assured the Executive Director that pilot reports are taken very seriously and that they will work to improve the feedback loop to the pilots.

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**9. Reportable Piloting Events – Executive Director Garfinkle (Reports received between the issuance of this notice and the meeting will also be reported on.)**

**Status report on the June 8, 2016 event involving M/V MORNING ORCHID, where interaction with the M/V K WINNER resulted in gangway damage, in the Port of Stockton.**

Executive Director Garfinkle reported an event involving the M/V MORNING ORCHID and the M/V K WINNER, in which the M/V K WINNER was alleging gangway damage. He stated the event occurred on June 8, 2016, that an inspector was dispatched, evidence was being gathered, and that the 90-day deadline for the IRC report is September 6, 2016.

**10. Loss of Propulsion/low sulfur fuel report – Executive Director Garfinkle**  
**Report on loss of propulsion events arising in June 2016, including those events suspected to be due to low sulfur fuel issues.**

Executive Director Garfinkle provided the Board with the USCG’s Prevention/Response—San Francisco Harbor Safety Statistics report for June, 2016, and noted the report reflects that there were three loss of propulsion events, and that none were attributable to fuel switching or the use of low sulfur fuel.

**11. Rules and Regulations Committee – Commissioner Long**

**A) Report on the Rules and Regulations Committee held on June 18, 2016.**

Rules and Regulations Committee Chairman, Commissioner Long, reported that the Committee met on June 18, 2016, and that there was a continuance of the discussion on the development of pilot trainee reinstatement regulations. He stated the Committee reviewed a second draft of the proposed regulations, and that a third draft would be developed based upon the comments made at the meeting.

He further reported that the Committee held a discussion about shifting the pilot continuing education contracting to the San Francisco Bar Pilots, and that doing so may create other issues for the Board. He stated the Committee decided that Board Counsel Eagan, the SFBP and Assistant Director Cristia-Plant would research the statutory, business and state contracting issues involved, respectively.

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**B) Report on the status and progress of various Board rulemaking efforts, including the following sections in Title 7, California Code of Regulations:**

- a. **Section 211.5 – Commission Investigator Minimum Standards (amend minimum qualifications standards).**
- b. **Section 213 – Pilot Trainees (add exam fee and clean-up of regulations).**
- c. **Section 215 – Pilot and Inland Pilot Training (add fatigue management and radar navigation in low/restricted visibility training and clean-up).**
- d. **Section 218 – Duties of Port Agent (amend requirement for assignments of pilots with under 12 and 18 months experience).**
- e. **Section 222 – Conflicts of Interest (add Port Agent Conflict of Interest regulation).**

Executive Director Garfinkle reported that no work was done on the Omnibus Rulemaking endeavor involving amendments to regulations §211.5, 213, 215 and 218 due to Board Staff being busy with other mission critical work. He stated that Board Staff intend to send the final rulemaking package to the Office of Administrative Law in the near future.

**12. Report on the status of San Francisco Bar Pilot Pension Plan litigation – Board Counsel Eagan**

**Status report on Craig E. Reeder vs. State Board of Pilot Commissioners litigation. The Board may go into closed session to discuss with Board Counsel any matters subject to attorney-client privilege as per Government Code §11126(e) of the Bagley-Keene Open Meeting Act.**

Board Counsel Eagan reported that Captain Reeder’s appeal reply brief was filed with the Court of Appeal, and he anticipates the Court will schedule the oral argument sometime in the early fall.

**13. Board discussion of best practices in maritime safety – Vice President Connolly**

**A Board discussion of best practices in maritime safety and/or lessons learned from Incident Review Committee incident reports or other sources, and possible directions to staff to develop safety policies and procedures. Possible Board action to direct staff to develop safety policies and procedures.**

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There was no report or public comment.

**14. Board report on the M/V STAR LUSTER – Vice President Connolly**

A review and approval of the formal order prepared by Board Counsel of the Board's determination and findings made on June 23, 2016, after the Incident Review Committee's incident report concerning the event involving the M/V STAR LUSTER allision with overhead power cables in the Port of Stockton on January 19, 2016. The Board may go into closed session for the review and approval of the formal order presented under this item pursuant to Harbors and Navigation Code §1180.6(a) and Government Code §11126(c)(3).

Board Counsel Eagan stated that since there isn't a quorum, this item will be continued to the next Board meeting.

**15. Public comment on matters not on the agenda.**

**16. Proposals for additions to next Board meeting agenda.**

There we no proposals for the next Board meeting other than Board review and approval of a formal order involving the M/V STAR LUSTER incident.

**17. Adjournment.**

Vice President Connolly adjourned the informal meeting at 10:25 a.m.

Submitted by:




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Allen Garfinkle, Executive Director